IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

RFA No. 245 of 2004

Reserved on : 3.8.2007

Date of Decision :8.8.2007

L.A.C & others ….Appellants.

Versus:

Ram Lal & others …Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the Appellants: Mr. C.B.Singh, Dy.Advocate General

For the Respondent. Mr. Virender Chauhan, Advocate.

Sanjay Karol, J.

In the present appeal the appellants have assailed the impugned award dated 11.11.2003 passed in Land Reference case No. 4-S/4 of 2000 titled as Devi Ram through LRs Ram Lal and others vs. L.A.C and others, whereby compensation payable to the respondents, for acquisition of their cultivable land, has been enhanced from Rs.5000/- to Rs.50,000/- per bigha.

Petitioners land comprised in Khasra No. 24/1 and 28/1 measuring 8 biswas in village Kyari, Tehsil Arki, District – Solan,

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

was acquired for public purpose, namely, construction of Piplughat Darla road. Section 4 notification under the Land Acquisition Act, 1884 (hereinafter referred to as the Act), was published on 23.9.1989 and the Collector passed the award No. 6/93 on 19.7.1993. Undisputedly, respondents land is of best quality and has been classified as cultivable land for which Rs.5000/- per bigha has been assessed as the compensation, being fair market value of the respondents acquired land.

Aggrieved by the same, the land owners filed reference petition under Section 18 of the Act and examined three witnesses, namely, Shri Sees Ram (PW-1), Shri Ram Lal (PW-2), Shri Kanshi Ram (PW-3), and got exhibited sale deed dated 19.12.1980 Ext.PA, copy of the awards passed by the District Judge (in land reference petitions) dated 23.2.2000 Ext.P1; 18.5.1992 Ext.P2; 9.12.2002 Ext.P3. The Court below relying upon the sale deed Ext.PA enhanced the compensation amount to Rs.50,000/- per bigha.

The learned Deputy Advocate General has submitted that Ext.PA could not have been made basis for determining the market value and compensation payable for the acquired land for the simple reason that Ext.PA pertains to village Piplughat which is at a distance of 12 kilometers from village Kyari where the acquired land is situated. According to him, the Court below ought to have relied upon the award dated 23.2.2000 Ext.P1.

I have perused the said award. The Court below did not consider and rely upon the award Ext.P1 for the reason that from the same it was not decipherable as to on what basis the market value was assessed by the learned District Judge.

I have seen the award Ext.P-1 from the record and it is evident that the finding recorded by the Court below in the impugned award is not correct. Ext.P-1 passed by the District Judge pertains to the very same village where the acquired land is situated. The District Judge has relied upon the sale instances in the said award and after considering the entire material has come to the conclusion that Rs.40,000/- per bigha would be fair market value payable to the land-owners, as compensation, for acquisition of the land.

Ext.P-1 can be made the basis for arriving towards the fair market value on the basis of which compensation can be paid to the respondents. I am, therefore, in agreement with the submissions made by the learned Deputy Advocate General and relying upon Ext.P1, I reduce the amount of compensation.

Accordingly, I hold that the respondents shall be entitled to enhanced compensation at the rate of Rs.40,000/- per bigha instead of Rs.50,000/- per bigha as was wrongly determined in the impugned award.

For the aforesaid reasons, the present appeal is allowed and impugned award dated 11th November, 2003 passed by the District Judge, Solan is accordingly modified. The respondent shall be entitled to all the statutory benefits on the enhanced compensation of Rs.40,000/- in accordance with law.

August 8, 2007 **(Sanjay Karol),**
™ **Judge**